

**STATE OF NEW MEXICO
WATER QUALITY CONTROL COMMISSION**

**IN THE MATTER OF MARISELA
ORNELAS, d/b/a VISION MOBILE
HOME PARK, LLC,**

WQCC No. 21-04 (CO)

Respondent.

ORDER ON RESPONDENT'S MOTION TO DISMISS

THIS MATTER having come before the New Mexico Water Quality Control Commission ("Commission") at its regular meeting on April 13, 2021, on the Motion to Dismiss ("Motion to Dismiss") filed on February 8, 2021, by Respondent Marisela Ornelas ("Respondent"), doing business as Vision Mobile Home Park, LLC, and on the Response in Opposition to Respondent's Motion to Dismiss ("Response") filed on February 9, 2021, by the New Mexico Environment Department ("Department"); the Commission having heard and duly considered the parties' respective arguments of fact and law; and the Commission being otherwise sufficiently advised in the premises, **FINDS:**

1. Respondent's Motion to Dismiss, although styled as a motion to dismiss, in fact sought to substitute "Vision Mobile Home Park, LLC" as Respondent in her request for a public compliance order hearing filed under NMSA 1978, Section 74-6-10(G) (1993) and 20.1.3.19 NMAC.

2. Respondent applied for and received ground water discharge permit DP-1691 from the Department's Ground Water Quality Bureau, for discharges of up to 8,700 gallons per day of domestic wastewater to eleven septic tank/leach field systems, for a "facility" (as that term is defined in Part I.1 of the Supplemental Instructions to the Ground Water Discharge Permit Application Form) named "Vision Mobile Home Park" with a physical address of 1 Road 6367,

Kirtland, New Mexico 87417. (Response, NMED Exhibit A).

3. The application for ground water discharge permit DP-1691 received by the Department's Ground Water Quality Bureau on August 14, 2019, was submitted in Respondent's name and under her signature, as the "owner" of the facility and all discharge sites, and as the person "legally responsible for the discharge and for complying with the terms of the discharge permit." (Emphasis in the original.) (Response, NMED Exhibit A).

4. Discharge permit DP-1691 and was issued under 20.6.2 NMAC to Respondent in her name as permittee and the owner of the named facility, "Vision Mobile Home Park," subject to compliance with all terms and conditions, both specific and general, set forth in the discharge permit. (Response, NMED Exhibit B).

5. The Administrative Compliance Order Requiring Compliance and Assessing a Civil Penalty ("Compliance Order"), a copy of which Respondent submitted to the Commission Administrator for filing in this matter on February 25, 2021, was issued to "Marisela Ornelas, d/b/a Vison Mobile Home Park, LLC." (Compliance Order, Pref. Par.).

6. At no time relevant to the Commission's disposition of Respondent's Motion to Dismiss had a ground water discharge application been submitted by or a permit issued to any entity, legal or otherwise, named "Vision Mobile Home Park, LLC," under 20.6.2.3106 NMAC.

7. At no time relevant to the Commission's disposition of Respondent's Motion to Dismiss had Respondent met the requirements of 20.6.2.3111 NMAC for the transfer of discharge permit DP-1691 from Respondent's name to "Vision Mobile Home Park, LLC."

8. Respondent, individually or through her designated representative, Charles "Bob" Patton, did not otherwise present to the Commission a sufficient factual or legal basis, or both, for either a dismissal of the pending administrative action against Respondent or a substitution of

“Vision Mobile Home Park, LLC” as Respondent in such administrative action.

9. That Vision Mobile Home Park, LLC may be, or is, a domestic limited liability company in good standing within the State of New Mexico, with Respondent as the registered agent of record, was not material to the Commission’s disposition of Respondent’s Motion to Dismiss.

IT IS THEREFORE ORDERED that Respondent’s Motion to Dismiss be, and it hereby is, denied in its entirety.

Dated this 22nd day of April, 2021.

Jennifer Pruett Digitally signed by Jennifer Pruett
Date: 2021.04.22 16:05:16 -06'00'

Jennifer J. Pruett
Commission Chair

Certificate of Service

I hereby certify that on April 23, 2021 a copy of the foregoing **Order** was emailed to the persons listed below. A copy will be mailed first class upon request.

Christopher J. Vigil
Assistant General Counsel
New Mexico Environment Department
121 Tijeras Ave, NE #1000
Albuquerque, NM 87102
ChristopherJ.Vigil@state.nm.us
Counsel for the New Mexico Environment Department

Marisela Ornelas
Elegant Hills Park and Estates, LLC
P.O. Box 1178
Cortez, CO 81321
ehpestates@gmail.com

Charles Patton
Vision Mobile Home Park, LLC
2091 Locust Road
Montrose, CO 81401
312hs7@gmail.com

Robert F. Sanchez
New Mexico Office of the Attorney General
408 Galisteo St.,
Santa Fe, NM 87501
rfsanchez@nmag.gov
Counsel for the Water Quality Control Commission

Pamela Jones, Commission Administrator
Water Quality Control Commission
P.O. Box 5469
Santa Fe, NM 87502
Phone: (505) 660-4305
Email: Pamela.Jones@state.nm.us